

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ANGEL DAVID MORALES-VALLELLANES,

Plaintiff,

v.

CIVIL NO. 97-2459(GAG)

UNITED STATES POSTAL SERVICE,

Defendant.

ORDER

Plaintiff has filed a “Motion in Limine” (Docket No. 359) which was duly opposed by defendant (Docket No. 360). Plaintiff then filed a “Motion in Opposition to Defendant’s Opposition to Plaintiff’s Motion in Limine.” (Docket No. 361).

On August 29, 2007, an Order was issued granting in part and denying in part plaintiff’s “Motion in Limine” (Docket No. 362).

On August 30, 2007, plaintiff filed a “Motion to Set Aside Order” claiming that defendant’s economic expert witness (Dr. Mohinder Bhatia) nor his expert report were announced by defendant. Accordingly, plaintiff requested the Court to set aside its Order denying plaintiff’s Motion in Limine as to the testimony of Dr. Bhatia and his expert witness report. (Docket No. 363).

On the same day, an Order was issued holding in abeyance plaintiff’s “Motion to Set Aside Order” in which defendant was ordered to produce to the Court evidence of the timely production of Dr. Bhatia’s expert witness report to plaintiff. (Docket No. 364).

On September 4, 2007, defendant filed a “Motion in Compliance” attaching a Sworn Statement of Luis Rodríguez, legal assistant to AUSA Fidel Sevillano, attesting to the fact that the

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expert witness report of Dr. Bhatia was personally handed by him to plaintiff's counsel on June 20, 2006 before a deposition in this case was taken. (Docket No. 366).

On September 5, 2007, plaintiff filed a "Response in Opposition to Defendant's Motion in Compliance and Requesting Sanctions" in which plaintiff denies the receipt of Dr. Bhatia's expert witness report and claims that he is "defenseless." (Docket No. 368).

The Court has carefully considered the arguments raised by both parties and, without adjudicating any credibility on the issue now before the Court, rules that --in the best interest of justice and in an abundance of caution-- plaintiff shall be provided at this juncture with a copy of Dr. Bhatia's expert witness report and be granted an opportunity to depose Dr. Bhatia before the jury trial.

Accordingly, defendant is hereby ORDERED to produce by hand at the office of plaintiff's counsel in the next five (5) days a copy of Dr. Bhatia's expert witness report. Defendant shall secure a receipt, from the office of plaintiff's counsel, of Dr. Bhatia's expert witness report. Upon receipt by plaintiff of Dr. Bhatia's expert witness report, plaintiff is granted fifteen (15) days to review Dr. Bhatia's expert witness report and inform defendant in writing whether plaintiff wishes to depose Dr. Bhatia. If plaintiff decides to depose Dr. Bhatia, the parties shall jointly coordinate the deposition at their convenience on or before November 9, 2007.

In view of the foregoing, **the jury trial set for September 17-21, 2007 is VACATED and re-set for December 10-14, 2007.**

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 5th day of September of 2007.

s/**CAMILLE L. VELEZ-RIVE**
CAMILLE L. VELEZ-RIVE
UNITED STATES MAGISTRATE JUDGE